

**Comments in response to 65 Federal Register 58877 (October 2, 2000)
Submitted electronically to: <http://dms.dot.gov>
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Docket Number FAA-2000-8017**

Safe Disposition of Life-Limited Aircraft Parts
Comments on the Notice of Proposed Rulemaking

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Dear Sir or Madam:

Please accept these comments in response to the Federal Register Notice of Proposed Rulemaking published at 65 Federal Register 58877 (October 2, 2000) (Safe Disposition of Life-Limited Aircraft Parts).

These comments are offered in support of joint comments filed by the Aircraft Electronic Association, the Airline Suppliers Association, the Aeronautical Repair Station Association, the Helicopter Association International, the National Air Carrier Association and the Professional Aviation Maintenance Association.

Appendix A to these comments proposes alternative regulatory language addressing life-limited parts concerns. The alternative language is identical to that submitted by the above-mentioned organizations.

Contents

	page
What is the Airline Suppliers Association?	3
Background: Parts Distributors and Life-Limited Parts	4
Scope of the New Requirement	4
Part 43 is Inappropriate for New Rules Governing Life-Limited Parts.....	5
1. The removal, storage, and disposition of parts is not within the definition of ‘maintenance’	5
2. The proposed rule implies that the removal, storage, and disposition of life- limited parts are maintenance activities.....	6
3. If the removal, segregation, or disposition of a life-limited part is considered a maintenance activity, then only certificated personnel can perform it	7
4. Misplacement of this rule sets an adverse precedent	7
5. The benefits sought can be achieved through other, less burdensome means	8
Our Proposal Represents a More Appropriate Placement of the New Regulation.....	8
1. Owner/Operator Level Protections Under the Alternative Proposal.....	8
2. Installer Level Protections Under the Alternative Proposal	9
Conclusion.....	9
Appendix A.....	11
Sec. 1.1.....	11
Part 23 App’x G 23.4.....	11
Part 25 App’x H 25.4.....	11
Part 27 App’x A 27.4.....	12
Part 29 App’x A 29.4.....	12
Part 31 App’x A 31.4.....	12
Part 33 App’x A 33.4.....	13
Part 35 App’x A 35.4.....	13
Sec. 43.16 Airworthiness Limitations.	13
Sec. 45.14 Identification and disposition of critical components.	14
Sec. 91.420 Maintenance and transfer of records for life-limited parts.	14

What is the Airline Suppliers Association?

Founded in 1993, the Airline Suppliers Association (ASA) represents the aviation parts distribution industry, and has become known as an organization that fights for safety in the aviation marketplace. Even though parts distributors are generally not FAA-certificated entities, they play an important role in aviation safety, and many of them have taken it upon themselves to police the quality of their own industry by developing in-house quality systems.

ASA is a proponent of industry quality systems that help assure that aircraft parts sold to operators, repair stations, and mechanics are airworthy and safe. For example, ASA is one of the FAA's partners in the Voluntary Industry Distributor Accreditation Program.

Many of ASA's member businesses routinely handle life-limited aircraft parts. ASA strongly supports efforts to improve controls over the handling and disposition of life-limited parts, but favors an approach that will improve safety without imposing a potentially debilitating burden on parts distributors by indirectly making their employees subject to certification requirements that have until now applied only to mechanics, repairmen, and employees of air carriers.

Several of the proposed provisions would place a burden on parts distributors that would not be commensurate with any safety benefit. ASA's comments highlight several such proposals.

Background: Parts Distributors and Life-Limited Parts

Current aviation law provides the FAA with authority to regulate aviation maintenance, among other functions, by issuing certificates to qualified persons and by issuing regulations concerning the exercise of those functions. The current aviation regulations reflect this authority by providing for the regulation of aviation maintenance activities.

Historically, aviation law has not regulated commerce in aviation. Instead, it has focused on aviation safety issues. One example of the distinction between safety and commerce is the scope of the maintenance regulations, which require maintenance activities to be performed by appropriate parties (14 C.F.R. § 43.3), according to proper performance standards (14 C.F.R. § 43.13), appropriately documented (14 C.F.R. §§ 43.9, 43.11), and approved for return to service by an appropriate person (14 C.F.R. § 43.7). Non-maintenance activities, like the warehousing, sale and distribution of aircraft parts, are not considered to be subject to these sorts of regulations.

Because warehousing, sale and distribution of aircraft parts are not considered to be subject to maintenance regulations, there is no need for a distributor of aircraft parts to obtain a FAA-issued certificate. Most distributors of aircraft parts do not hold FAA-issued certificates, although a minority hold certificates that permit additional FAA-regulated privileges that are separate from distribution.

Scope of the New Requirement

Congress recently passed a law requiring the safe disposition of life-limited parts. This safe disposition must be designed to prevent life-limited parts that have reached the end of their useful life from being reinstalled on aircraft in an inappropriate manner.

The scope of this law encompasses more than just maintenance providers: It applies to a wide variety of persons who handle (disposition) life-limited parts that have reached the end of their useful lives.

This is because parts removal is not regulated. Although maintenance may only be performed by persons with FAA certificates, life-limited parts may legally be removed by anyone. This is not a safety issue because the integrity of the part must be checked at the time it is re-installed, and if it is damaged in removal then it cannot legally be re-installed unless it is repaired (if possible).

The scope of the proposed life-limited parts regulation must encompass a broader range of parties to assure that all affected life-limited parts are addressed appropriately. Traditionally, the FAA's existing regulations have addressed ongoing life-limited parts recordkeeping responsibilities through the operations regulations of 14 C.F.R. § 91.417.

Part 43 is Inappropriate for New Rules Governing Life-Limited Parts

In the preamble to the proposed rule, the FAA claims that “the removal, storage, and disposal of parts is closely related to maintenance of aircraft.” This is an inappropriate basis on which to locate new regulations because the relationship between these functions and maintenance is one of coincidence, rather than similarity of function. In particular, these functions are not generally regulated by the FAA (and do not need to be regulated) while aviation maintenance is regulated.

First, removal, storage, and disposal of parts are not ‘maintenance’ as that term is currently defined. Second, placing the new rules in Part 43 gives rise to the dangerous implication that the removal, storage, and disposal of life-limited parts are indeed maintenance activities, and thus subject to all the provisions of Part 43. Third, the confusion that is likely to arise as a result of this approach would have seriously adverse effects on many parts distributors. Fourth, once the implication arises that removal of life-limited parts is a maintenance activity, it is likely that this will be applied in practice to removal, storage, and disposition of *all* parts. Finally, the safety benefits sought can just as easily be achieved by placing the proposed rules in another part of Title 14. These points are discussed in greater detail below.

1. The removal, storage, and disposition of parts is not within the definition of ‘maintenance’

The removal, storage, and disposition of parts does not fall under the definition of ‘maintenance’ set forth in Part 1.1. ‘Maintenance,’ as defined in Part 1.1, means “inspection, overhaul, repair, preservation, and the replacement of parts.”

Likewise, part removal, storage, and disposition do not fall under the definitions of preventive maintenance, rebuilding, or alteration. To say that an activity is “closely related to maintenance” is not to say that it *is* maintenance. Many activities can be regarded as “related” or even “closely related” to maintenance – parts manufacturing, sales, training of mechanics, even flying in the aircraft that is being maintained. Up until now, activities that could be regarded as merely “related” to maintenance were regulated, if at all, in their own specific portions of the Federal Aviation Regulations.

Placing rules governing non-maintenance activities into Part 43 changes the focus of Part 43 and expands its coverage to include activities that are not “maintenance, preventive maintenance, rebuilding, or alteration.” This is inappropriate for two reasons. First, mixing ‘apples and oranges’ in this way produces confusing regulations, and it is difficult to comply with confusing regulations. Second, it represents a substantial change in the scope of the regulations that appears to be unanticipated, based on the language of the notice of proposed rulemaking, which states that no additional burden is expected to be imposed except for the burden imposed by the new law.

2. The proposed rule implies that the removal, storage, and disposition of life-limited parts are maintenance activities

Under the proposed rule, Section 43.1 would be amended to add a subsection (c) that extends the applicability of Part 43 by stating “[t]his part applies to each person who removes, segregates, or dispositions a life-limited part from a type-certificated product as provided in Sec. 43.10.” The plain meaning of this subsection is that *all* of Part 43 would apply to persons who remove, segregate, or dispose of life-limited parts.

It may be argued that a close reading of Part 43 and the definitions in Part 1.1 would show that only certain aspects of Part 43 actually apply to removal, segregation, or disposition of a life-limited part.

The problem lies in the fact that it takes an extremely close reading of the proposed new rules to establish that the removal, segregation, or disposition of life-limited parts are *not* maintenance activities. Unless that distinction is more explicitly spelled out, many observers are likely to draw the wrong conclusions. People in the aviation industry and FAA personnel alike know Part 43 as the rules governing maintenance activities; the natural assumption will be that any activity added to Part 43 is a maintenance activity as well. The best way to avoid that assumption is to avoid the problem altogether by keeping rules governing non-maintenance activities out of Part 43. To do otherwise invites observers to make the next logical step: if the activity is maintenance, it must be subject to all the requirements of Part 43, including the requirement that the work be performed by certificated personnel, be recorded in accordance with section 43.9, etc.

3. If the removal, segregation, or disposition of a life-limited part is considered a maintenance activity, then only certificated personnel can perform it

If all activities governed by Part 43 are construed as being subject to the other requirements of Part 43 (which is currently the case), then the inevitable conclusion would be that all such activities are subject to the full range of requirements set forth in Part 43 as a whole.

This would mean that the removal, segregation, or disposition of life-limited parts could only be performed by the certificated persons or entities enumerated in Section 43.3; that certificated persons would have to approve the work for return to service as set forth in Section 43.7; that the work would have to be performed in accordance with the rules set forth in Section 43.13; that entries would have to be made in maintenance records as required by Section 43.9; etc.

The result of such an interpretation for parts distributors, many of whom do not employ any certificated personnel, would be immediate and burdensome. Although the life-limited parts in their inventories prior to the effective date of the proposed final rule would be unaffected, parts distributors could be prevented from performing common industry tasks, like destroying life-limited parts that are not considered salable or airworthy, segregating life-limited parts from other aspects of the inventory, or undertaking other ordinary and safe commercial activities with respect to aviation parts.

Distributors could expose themselves and their employees to civil penalties if they allowed uncertificated employees to remove, store (segregate), or dispose of a life-limited part.

4. Misplacement of this rule sets an adverse precedent

Prior experience has shown that once a misunderstanding of the regulations arises, it can take on a life of its own.¹

If the proposed rules come to be interpreted in practice to mean that the removal, segregation, or disposition of life-limited parts is a maintenance activity subject to the requirements of Part 43, then it would be logical to conclude that the removal, segregation, or disposition of *any* parts should be considered a maintenance activity. This would have far wider effects in the parts distribution industry than Congress ever intended when it included provisions concerning life-limited parts in the Wendall H. Ford Investment and Reform Act for the 21st Century.

¹ For example, an industry misunderstanding of the term “approved” has resulted in FAA guidance that endorses a colloquial definition of the term “approved” in FAA Advisory Circular 21-29B.

5. The benefits sought can be achieved through other, less burdensome means

ASA fully supports efforts to improve safety by providing more complete information on the life status of life-limited parts. The basic mechanism set forth in the proposed rule is reasonable; however some modifications in the placement and language of the regulation would make it easier for the industry to comply, easier for the FAA to assure compliance, and easier for the industry to maintain consistently high levels of safety without running afoul of the law.

The industry currently keeps records of life-limited parts as a matter of common practice. The obligations associated with recordation and protection of life-limited parts are well-understood in the industry. The law makes it clear that these common practices are meant to be enforced.

By drafting a regulation that meets the intent of the law while at the same time reflecting the current “best practices” in the industry, the FAA would promulgate a regulation that is most likely to achieve the high levels of safety to which we all strive.

Our Proposal Represents a More Appropriate Placement of the New Regulation

ASA has worked with several other trade associations to develop alternative proposed regulatory language that reflects the needs of the industry, the public and the FAA. This language is attached below as Appendix A.

In addition to resolving the conflicts and problems that arise under the original proposed language, the Appendix A proposal reflects several advantages.

1. Owner/Operator Level Protections Under the Alternative Proposal

Under current rules and under current policy, owner/operators of aircraft maintain the current status records of the life-limited parts on their aircraft. They are required to transfer these records when they transfer the parts. Under our proposal, an owner/operator of an aircraft retains this obligation, and also retains the obligation to transfer records concerning life-limited parts even when they are transferred without the rest of the aircraft.

This avoids a potential dispute between the remover and the owner of the aircraft (who is also the owner of the life-limited part removed from the aircraft), where the owner has another party remove a part from its aviation product.

Under the original proposed rule, the remover is responsible for the disposition of the removed part. This rule does not abrogate the owner’s property rights. It is possible that an owner could intend one disposition (such as segregation of the

part) while the remover might prefer another disposition (such as destruction of the part). The proposed regulations seem to place the obligation for determining disposition on the remover, while property law places that right within the ambit of the owner. This is a dispute that could reasonably arise as both parties seek to protect their rights and responsibilities with respect to a removed life-limited part.

Our proposal eliminates this potential dispute by making it clear the owner/operator remains in control of the disposition of life-limited parts that belong to him, and bars the responsibilities associated with such rights. Of course, these rights and responsibilities will likely be delegable to the extent normally permitted by the FAA.

2. Installer Level Protections Under the Alternative Proposal

Under current policy, an installer will not install a life-limited part unless he can be certain of the current life status of the part. There are two reasons for this.

First, installation is a species of maintenance and as such is governed by the performance standard of 14 C.F.R. § 43.13. This requires the installer to return the assembly into which a life-limited part is installed to a condition at least equal to original or properly altered condition. The airworthiness limitations section of the instructions for continued airworthiness (in which the life limits are published), is a part of the type design by definition. 14 C.F.R. 21.31(c). Therefore the installer cannot meet the 43.13(b) performance standard unless he or she has the life status records to assure that the part meets the requirements of type design.

Second, owner/operators are required to have records of current status for life-limited parts. Therefore, as a matter of common practice, an installer will not install a part unless he or she can provide to the owner/operator the current status records required by the operational rules. Otherwise, the owner/operator would not be able to accept the work and remain in compliance with Part 91.

The proposal supports this existing industry practice by making it explicit that an installer may not install a life-limited part without recourse to the appropriate records.

Conclusion

The industry proposal described in Appendix A represents the best industry practices. For this reason, it would not be overly burdensome.

It represents a simple way to improve aviation safety and to meet the requirements of the new life-limited parts law.

It is also supported by a wide variety of industry associations (a jointly drafted version of this proposed language has been filed by AEA, ARSA, ASA, HAI, NACA and PAMA).

ASA therefore fully endorses the proposed regulatory language, and requests the FAA to either adopt it as recommended or to reissue the proposed language as a supplemental notice of proposed rulemaking.

Respectfully Submitted,

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Appendix A

Proposed Replacement Regulatory Language

Sec. 1.1

A *life-limited part* is one for which a replacement time, inspection interval, or related procedure is specified in the Airworthiness Limitations section of a manufacturer's maintenance manual or Instructions for Continued Airworthiness.

A *life status*, when referenced as an element of a life-limited part, means total time or cycles expended in relation to a replacement time, inspection interval, or related procedure specified in the Airworthiness Limitations section of a manufacturer's maintenance manual or Instructions for Continued Airworthiness.

Part 23 App'x G 23.4

G23.4 Airworthiness Limitations section. The Instructions for Continued Airworthiness must contain a section titled Airworthiness Limitations that is segregated and clearly distinguishable from the rest of the document. This section must set forth each mandatory replacement time, structural inspection interval, and related structural inspection procedure required for type-certification. For each part subject to a mandatory replacement time, structural inspection interval, or related structural inspection procedure, this section shall provide detailed marking instructions or shall state that the part cannot practicably be marked without compromising its integrity. If the Instructions for Continued Airworthiness consist of multiple documents, the section required by this paragraph must be included in the principal manual. This section must contain a legible statement in a prominent location that reads: "The Airworthiness Limitations section is FAA approved and specifies maintenance required under §§ 43.16 and 91.403 of the Federal Aviation Regulations unless an alternative program has been FAA approved."

Part 25 App'x H 25.4

H25.4 Airworthiness Limitations section. The Instructions for Continued Airworthiness must contain a section titled Airworthiness Limitations that is segregated and clearly distinguishable from the rest of the document. This section must set forth each mandatory replacement time, structural inspection interval, and related structural inspection procedure that is approved under § 25.571. For each part subject to a mandatory replacement time, structural inspection interval, or related structural inspection procedure, this section shall provide detailed marking instructions or shall state that the part cannot practicably be marked without compromising its integrity. If the Instructions for Continued Airworthiness consist of multiple documents, the section required by

this paragraph must be included in the principal manual. This section must contain a legible statement in a prominent location that reads: "The Airworthiness Limitations section is FAA approved and specifies maintenance required under §§ 43.16 and 91.403 of the Federal Aviation Regulations unless an alternative program has been FAA approved."

Part 27 App'x A 27.4

A27.4 Airworthiness Limitations section. The Instructions for Continued Airworthiness must contain a section, titled Airworthiness Limitations, that is segregated and clearly distinguishable from the rest of the document. This section must set forth each mandatory replacement time, structural inspection interval, and related structural inspection procedure approved under § 27.571. For each part subject to a mandatory replacement time, structural inspection interval, or related structural inspection procedure, this section shall provide detailed marking instructions or shall state that the part cannot practicably be marked without compromising its integrity. If the Instructions for Continued Airworthiness consist of multiple documents, the section required by this paragraph must be included in the principal manual. This section must contain a legible statement in a prominent location that reads: "The Airworthiness Limitations section is FAA approved and specifies inspections and other maintenance required under §§ 43.16 and 91.403 of the Federal Aviation Regulations unless an alternative program has been FAA approved."

Part 29 App'x A 29.4

A29.4 Airworthiness Limitations section. The Instructions for Continued Airworthiness must contain a section titled Airworthiness Limitations that is segregated and clearly distinguishable from the rest of the document. This section must set forth each mandatory replacement time, structural inspection interval, and related structural inspection procedure approved under § 29.571. For each part subject to a mandatory replacement time, structural inspection interval, or related structural inspection procedure, this section shall provide detailed marking instructions or shall state that the part cannot practicably be marked without compromising its integrity. If the Instructions for Continued Airworthiness consist of multiple documents, the section required by this paragraph must be included in the principal manual. This section must contain a legible statement in a prominent location that reads: "The Airworthiness Limitations section is FAA approved and specifies maintenance required under §§ 43.16 and 91.403 of the Federal Aviation Regulations unless an alternative program has been FAA approved."

Part 31 App'x A 31.4

A31.4 Airworthiness Limitations section. The Instructions for Continued Airworthiness must contain a section titled Airworthiness Limitations that is segregated and clearly distinguishable from the rest of the document. This

section must set forth each mandatory replacement time, structural inspection interval, and related structural inspection procedure, including envelope structural integrity, required for type certification. For each part subject to a mandatory replacement time, structural inspection interval, or related structural inspection procedure, this section shall provide detailed marking instructions or shall state that the part cannot practicably be marked without compromising its integrity. If the Instructions for Continued Airworthiness consist of multiple documents, the section required by this paragraph must be included in the principal manual. This section must contain a legible statement in a prominent location that reads: "The Airworthiness Limitations section is FAA approved and specifies maintenance required under §§ 43.16 and 91.403 of the Federal Aviation Regulations."

Part 33 App'x A 33.4

A33.4 Airworthiness Limitations section. The Instructions for Continued Airworthiness must contain a section titled Airworthiness Limitations that is segregated and clearly distinguishable from the rest of the document. This section must set forth each mandatory replacement time, inspection interval, and related procedure required for type-certification. For each part subject to a mandatory replacement time, structural inspection interval, or related structural inspection procedure, this section shall provide detailed marking instructions or shall state that the part cannot practicably be marked without compromising its integrity. If the Instructions for Continued Airworthiness consist of multiple documents, the section required by this paragraph must be included in the principal manual. This section must contain a legible statement in a prominent location that reads: "The Airworthiness Limitations section is FAA approved and specifies maintenance required under §§ 43.16 and 91.403 of the Federal Aviation Regulations unless an alternative program has been FAA approved."

Part 35 App'x A 35.4

A35.4 Airworthiness Limitations section. The Instructions for Continued Airworthiness must contain a section titled Airworthiness Limitations that is segregated and clearly distinguishable from the rest of the document. This section must set forth each mandatory replacement time, inspection interval, and related procedure required for type certification. For each part subject to a mandatory replacement time, structural inspection interval, or related structural inspection procedure, this section shall provide detailed marking instructions or shall state that the part cannot practicably be marked without compromising its integrity. This section must contain a legible statement in a prominent location that reads: "The Airworthiness Limitations section is FAA approved and specifies maintenance required under §§ 43.16 and 91.403 of the Federal Aviation Regulations unless an alternative program has been FAA approved."

Sec. 43.16 Airworthiness Limitations.

(a) Each person performing an inspection or other maintenance specified in an Airworthiness Limitations section of a manufacturer's maintenance manual or Instructions for Continued Airworthiness shall perform the inspection or other maintenance in accordance with that section, or in accordance with operations specifications approved by the Administrator under Parts 121, 125 or 135, or an inspection program approved under Sec. 91.409(e).

(b) A person shall not install a life-limited part that was removed under section 91.420 of this chapter, on an airframe, aircraft engine, propeller, appliance, or component part of an aircraft unless that person:

Has possession of or access to records, tags or markings containing the current status of the life-limited part; and,

Has verified through those records, tags or markings that the life-limited part has not exceeded the greater of

The replacement time, inspection interval, or related procedure specified in the Airworthiness Limitations section of a manufacturer's maintenance manual or Instructions for Continued Airworthiness, or

An alternative replacement time, inspection interval, or related procedure that has been approved by the Administrator.

Sec. 45.14 Identification and disposition of critical components.

Each person who produces a life-limited part under this chapter must permanently and legibly mark that component with a part number (or equivalent) and a serial number (or equivalent). When requested by a person required to comply with this chapter, each person who produces a life-limited part under this chapter must provide detailed marking instructions, or must state that the part cannot practicably be marked without compromising its integrity.

Sec. 91.420 Maintenance and transfer of records for life-limited parts.

(a) When a life-limited part that has not reached or exceeded its life-limit is removed from an aircraft, aircraft engine, propeller or component part of such aircraft, aircraft engine or propeller after [the effective date of this rule], then the owner or operator, or that party's agent, shall ensure the safe disposition of that life-limited part. Safe disposition of a life-limited part that has not reached or exceeded its life-limit shall include but not be limited to one the following:

(1) A record may be created of the life-limited part's current life status and the life-limit part may be segregated under circumstances that require reference to the record prior to the installation on an aircraft, aircraft engine or propeller operated under this chapter. Compliance with this paragraph requires at least:

(i) Making and maintaining a record of the serial number and current life status of the part, and

(ii) Ensuring that the part is stored in a manner that makes it clear that reference to the record is a necessary precondition to installation; and

(iii) Providing the current life status record to a subsequent owner or person required to comply with Part 43 of the chapter of the life-limited part in accordance with the requirements of this section;

(2) A tag may be attached to the part to include its serial number, if any, and its current life status. The tag must be updated or replaced to reflect current life status each time the part is removed from service;

(3) The part may be marked, if practical, to indicate the current life status. This marking must be accomplished in accordance with Part 43 of this chapter. If the part is reinstalled according to methods, techniques and practices acceptable to the Administrator, then the life status may be updated each time the part is removed from service;

(4) Any method described in subsection (b) of this section;

(5) Any other method approved by the Administrator.

(b) When a life-limited part that has reached or exceeded its life-limit is removed from an aircraft, aircraft engine, propeller or component part of such aircraft, aircraft engine or propeller after [the effective date of this rule], the owner or operator of the aircraft, aircraft engine or propeller or component part from which it is removed, or that party's agent, shall ensure the safe disposition of that life-limited part. Safe disposition of a life-limited part shall include but not be limited to any one of the following:

(1) The part may be segregated under circumstances that preclude its installation on an aircraft, aircraft engine or propeller operated under this chapter. These circumstances must include, at least:

(i) Keeping a record of the serial number and current life status of the part; and
(ii) Ensuring that the part is stored separately from serviceable parts; and
(iii) Providing current life status records to any subsequent owner of the part in accordance with the requirements of this section;

(2) The part may be permanently and legibly marked to indicate that its useful life has been exhausted;

(3) A tag may be attached to the part to include the current life status, indicating that its useful life has been exhausted;

(4) The part may be destroyed in any manner that prevents installation in an aircraft, aircraft engine or propeller operated under this chapter;

(5) Any other method approved by the Administrator.

(c) Any owner or operator who sells or transfers a life-limited part that has been subject to a safe disposition under this section shall transfer to the transferee the current life status records of the life-limited part.

(d) Any owner or operator who provides, to a person required to comply with 43.16, a life-limited part that has been subject to a safe disposition under this section, shall transfer to the transferee the current life status records of the life-limited part.